No. P. 1900--*Legis. dated* 3*rd. November* 1926.

Under Standing order 49 of the Standing orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Mysore Religious and Charitable Institutions Bill is published for general information with the Bill as amended by them.

By Order,
B. NAGAPPA,
Secretary to Government,
Local and Legislative Departments.

We, the members of the Select Committee appointed to consider the Mysore Religious and Charitable Institutions Bill beg to submit the following report:—

We considered the Bill at four meetings and a copy of the Bill as amended by us is hereto attached. It may be published for general information.

Many of the amendments made by us are of a verbal character and call for no remarks.

We deal below with the important amendments suggested by us:—

(1) We have amended the preamble so as to be in accordance with the formula which is now being followed.

(2) We think that in clause 2, it is necessary to define 'Religious or Charitable Institution' as including an endowment for the carrying out of any religious or charitable object.

(3) In clause 5, we think it is necessary to indicate clearly who is the Muzrai Officer referred to in it. We propose the subsitution of the words 'Deputy Commissioner' for the words 'Muzrai Officer.'

(4) Clause 9, in our opinion, requires to be made more explicit than it is. Firstly, we think that the transactions which are declared invalid under the clause should be clearly indicated. We therefore propose that the words 'alienation or transfer by way of sale, gift, mortgage or otherwise' should be substituted for the words 'transaction purporting to alienate.' Secondly for the words 'adverse interest,' we have substituted the words 'adverse to such institution.'

(5) The proviso 5 to clauses 10 and 30 reproduce a part of the Chief Commissioner's Notification No. 266, dated 17th November 1877. We consider that it is sufficient merely to refer to this notification and have accordingly amended the provisos.

In view of the interpretation placed by the Chief Court in R. A. No. 154 of 24-25, *Government VS. Soorappa* on the proviso to Section 14 of the present Regulation, we consider it necessary to make provision for dealing with cases in which possession may be claimed to be retained under the said proviso. It will be seen that under the existing law, the Muzrai Officer is authorised, even in cases in which possession of the alienee should not be disturbed, to impose full assessment on the land alienated or to cancel the tenure and direct the assessment recovered to be handed over for the benefit of the institution. We deem it necessary to provide in this clause that in dealing with such cases the Muzrai Officer should be empowered to exercise these powers, for otherwise, the person to whom the land was wrongfully alienated and who retains possession of it will get the additional benefit of enjoying the land free of assessment for which there is no justification. We have therefore proposed another proviso to clause 10.

*Mr. C. S. Balasundaram Iyer who was appointed a member of the committee before its last sitting was unable to be present at the meeting.

(6) Clause 11 authorises the Muzrai Officer or two or more of Dharmadarsis or Nazarins to file suits on behalf of Muzrai institutions. This will probably do in most cases, but circumstances may occasionally arise in which it may be desirable to invest some other persons also with the power to file suits. We accordingly propose that persons having an interest in a Muzrai institution may be given this power.

(7) Clause 12 as it stands does not prescribe any period of limitation for the recovery of arrears of rent or revenue. We consider that there should be a limit which may, in our opinion, be fixed at 6 years, and we have accordingly added a proviso to clause 12.

(8) In clause 13 power is taken by Government only for the temporary management of religious or charitable trusts. We think that power should also be taken for the permanent management of such institutions. Secondly, under the clause as it is at present worded, mere absence from Mysore for a continuous period of 6 months constitutes by itself a ground for taking over the management of an institution by the Government. We think that this is unnecessary in cases where, though the manager is absent from Mysore for 6 months, he has made proper arrangements for the management of the institution. We have proposed due provision in this behalf.

(9) In clause 14, we think that the power of making a reference to the Court of the District Judge in cases of disputes regarding the creation of a trust should be exercised by the Muzrai Officer only with the previous sanction of Government. We have made due provision in this behalf in this clause.

(10) In clause 19 we think that the period of three years provided is too short and requires to be raised to 6 years.

(11) In clause 21 the period within which a person aggrieved by an order of a Muzrai Officer can prefer an appeal, is fixed at 6 months from the date of the passing of the order. As this may cause hardship in some cases, as for instance, when the order does not come to the notice of the party, we have changed the Section so as to make the period of six months run from the date on which the order to be appealed against is communicated to him.

Under the proviso to the second part of clause 21, the Muzrai Officer is empowered to execute his orders and exercise all the powers of a Civil Court in respect of a property, the value or the annual income of which does not exceed Rs. 300. We are of opinion that while the annual income of the property may remain at Rs. 300, it is desirable to raise the value of the property to Rs. 3,000.

(12) In clause 23 sub-clause (b) we have included Co-operative Societies among institutions in which moneys belonging to public religious or charitable institutions may be invested.

(13) Clause 25 provides for the taking over, by the Government, of the possession and management of the property of a Matha. We think that due provision should also be made for the handing back of such possession and management. We therefore propose the addition of the following: "Provided that such management shall cease:—

i. On the termination of the period of agreement,

ii. when a successor is duly appointed and is competent to manage the property,

iii. when the minority or other disqualification mentioned above terminates."

(14) Clause 26 refers to the important power invested in Government of ordering an enquiry in respect of the mismanagement or improper alienation of part or whole of the property of a Matha or other institution. Firstly, we think that such power should be exercised only on a complaint made or information furnished in writing by disciples or other persons interested in a Matha or other institution. Secondly, we think that the Committee of inquiry should consist of at least one non-official

member who should be, whenever possible, a disciple or a person interested in the Matha or other institution. We have re-drafted the Clause in accordance with these views.

(15) We have re-worded clause 29 to make the meaning more clear.

(16) We have changed the proviso under clause 30 in accordance with the first proviso to Section 10 so as to affirm the principles contained in the Chief Commissioner's Notification of the 17th November 1877.

(17) There is no provision made in the Bill prescribing the periods within which appeals have to be preferred and we therefore propose the addition of sub-clause (5) to clause 38 on the lines of Section 211 of the Land Revenue Code.

(18) There is no provision in the Bill corresponding to Section 23 of the present Regulation. We consider that such a proviso is necessary and we have therefore proposed Clause 40 A.

K. P. PUTTANNA CHETTY,
B. NAGAPPA,
G. PARAMASIVIAH,
MOHAMED ABBAS KHAN,
M. VENKATAKRISHNAIYA,
B. NARASINGA RAO,
(subject to a note.)
HOSAKOPPA KRISHNA RAO,
(subject to a note of dissent.)

NOTE BY MR. B. NARASINGA RAO.—I find in clause 6 paragraph (2) that the Government may delegate to the Muzrai Commissioner the power of appointing Dharmadarsies for the institutions within his jurisdiction. Every institution in the State is within the jurisdiction of the Muzrai Officer. The clause is evidently intended to confer powers of appointing Dharmadarsies on the Deputy Commissioners in respect of institutions within their jurisdiction. The inclusion of Muzrai Commissioner in the same clause does not seem to be in conformity with the scheme of the Bill.

I would suggest that in the second para of clause 6 the words "to the Muzrai Commissioner or" be deleted. In clause 6 paragraph one after the words "The Government" the words "or the Muzrai Commissioner, if empowered by the Government" be inserted. Clause 13 appears to be a bit cumbersome.

The Report, as printed, may be published. I will propose such amendments as may be necessary, when the Bill comes up for final consideration in the Council.

DISSENTING MINUTE BY MR. HOSAKOPPA KRISHNA RAO.—I have signed the report subject to the following reservations:—

The Committee have thrown out some of my amendments partly and some entirely, which I believe to be important in the interest of the institutions which the Bill intends to provide for better governance of.

The first amendment relates to the principles of selection of Dharmadarsis and Nazarins. The power taken by Government to determine the manner of selection of Dharmadarsis is too vague to admit of even a person being selected from among the community to which he does not belong and such selection is opposed to the principles of better management of the institutions, which the Government have in view. It should therefore be laid down that no person who does not belong to that institution and who has no interest in it should be a Dharmadarsi of that institution. Sections 6 and 7 ought to be suitably modified.

The second amendment refers to the diversion of funds contemplated by Section 20. It is an important function and the framing of the Scheme should not be left exclusively in the

hands of the Muzrai Officer. It is necessary that the framing of Schemes should be left to the Judiciary. It is not just and proper to drive aggrieved parties to the Court for redress; and since resort to court cannot be done away with, it would be wiser and more equitable to apply to the court, whose decisions are deemed satisfactory in the very first instance only so as to minimise chances of injustice being done to parties. I would therefore recommend the recasting of Section 20 as follows :—

"*Section* 20 (1).—Where the object of a religious or charitable trust has, from the beginning, been impossible of realisation, the Muzrai Officer may, with the previous sanction of Government, apply to the court of the District Judge for sanction to devote the property or proceeds thereof or such amount as may be available after setting apart sufficient portion thereof for the repairs or renovation of the building, if any connected with the institution or endowment, to religious or other Charitable purposes not inconsistent with the object of the trust or endowment."

"*Section* 20 (2).—It shall be competent to the Court, if satisfied on hearing such parties as may appear before it in an enquiry, to determine what portion of such amount or surplus shall be retained as Reserve Fund for the benefit of the institution and what portion shall be devoted to any religious or other analogous purposes approved of by the Court."

"*Section* 20 (3).—The Court may from time to time, on the application of any person having interest in the trust or institution, revise, rescind or otherwise modify any order made under this Section."

The third amendment refers to Sections 26 and 27 which form the crux of the whole Bill. It is a very delicate matter for the Government, constituted as it is, to interfere in the management of hoary institutions like Mutts. Under the Bill, the Government take power to institute an enquiry on information furnished or complaint made; but it does not stipulate or indicate the sources of such informations or complaints. Indiscriminate interference will be resented and also will be ruinous and it will be better to restrict the source of such information or complaint and such information or complaint must proceed from those persons only who have an abiding interest in such institutions, and a definite number of persons, say for instance, 50 at least, should be fixed in the case of each Mutt. Regarding the composition of the Committee, it has been laid down that one of the three should be one who is interested in the institution; but nothing is said of the other two. Those two should not be members of institutions which have no common interest in the institution about which an enquiry is sought to be instituted.

Section 27 should also be recast so as to provide for judicial proceedings in the matter. It would be just and equitable to invoke the aid of a Civil Court in the very first instance only so as to guard against needless executive interference and high handedness and for the purpose of infusing confidence in the disciples of the institutions that all proper steps have been taken to ascertain the true nature of the institution at the time. There would then be no cause for complaint, if such matters are left to the decision of judicial tribunals.

I would therefore propose recasting Sections 26 and 27 as follows :—

"*Section* 26.—When not less than 50 persons having interest in the Mutt make an application to Government that any Mathadipathi or Head of an institution has been grossly mismanaging the property of the institution or has alienated or is attempting to alienate the whole or any part of such property for improper purposes and that, in the interest of proper administration of such institution, a scheme of administration should be settled; the Government may order an enquiry by a committee of three persons, two of whom shall be disciples of the Mutt and the third shall be one having interest in it."

"*Section* 27 (1).—If, on the report of the said committee, the Government is satisfied that the Mathadipathi concerned has mismanaged the property of the institution or has spent or alienated the same for improper purposes and that in the interests of proper administration, a scheme of administration should be settled, the Government may after consulting the Mathadipathi concerned and also persons having interest in the Mutt frame a scheme for the administration of the property of such mutt and cause the same to be filed with the Court of the District Judge for being made final.

"(2) If, in framing a scheme for the administration of the property of the Mutt concerned, the Government considers it necessary to associate any person or persons with the Mathadipathi for assisting in such administration, such person or persons shall be disciples of that Mutt or those having interest in it.

"(3) The Scheme framed under this Section shall be filed in Court together with the records of the enquiry held by the committee.

"(4) On the filing of the Scheme, the Court shall cause notices to be given to the Mathadipathi concerned and to such persons as have interest in that Mutt in such manner as it may deem fit. The notice shall provide a period of six months from date of service or publication of such notice for filing objections or amendments to the Scheme by the parties interested.

"(5) The Court shall fix a date after the expiry of the above period for hearing objections and amendments and may then confirm or modify the said Scheme in the light of the objections or amendments allowed by the Court."

In view of the recasting of Sections 20, 26 and 27, "persons having interest" should be defined as (1) in the case of a temple, a person who is the donee of a large property to the temple or his descendent or who is entitled to attend the performance of worship or service in the temple and (2) in the case of Mutt, desciples of Mutt or persons of the religious persuation to which the Mutt belongs.

The last amendment refers to Section 36. The subject matter of this Section is one affecting an important hereditary right and involves valuation of a right for assessing compensation. The ascertainment of both should therefore be best left to Civil Court for a judicial pronouncement in the first instance alone, for obvious reasons.

Lastly, it should be observed that one important defect in the whole Bill is the investment of the executive with extraordinary administrative powers without the necessary safeguards of prior civil action. It is no doubt that in some cases the Heads of Mutts and Trustees of temples are given the right of suit which is invariably a costly undertaking. What is wanted is not the right of suit by parties aggrieved but the invoking of the aid of Civil Courts in the very first instance alone to divert funds of the religious institutions and to settle schemes for Mutts and Temples, thus offering the parties interested, an opportunity to challenge the correctness or the validity of the action of the Executive. The Bill empowers the Executive to exercise unlimited power and jurisdiction in the first instance, of a varied and extensive character over all the religious institutions forcing thereby the aggrieved parties to seek civil remedies by means of expensive suits. The position of the parties being thus reversed, the entire burden and cost of litigation are thrown on the private parties. This is not as it ought to be. The claim may be advanced in favour of such provision that it is intended to minimise litigation but in effect it puts a premium on litigation.

Whatever may be the expediency from the administrative or any other point of view, of the Executive interference in the administration of religious institutions, there is no question that a strong view is entertained by the vast majority of the community interested in the institutions that such indiscriminate interference of the Executive with the rights and privileges of

religious institutions, including Mutts, is not only not desirable but is a most dangerous one and in the present state of things the scope of such should be limited by making all Executive action subject to the decisions of the authority of the established Courts of law to which the public have become accustomed to resort to for settlement of disputes and schemes and which are able to arrive at conclusions and decisions in strict accordance with established or accepted doctrines, practice and usages and rules obtaining or governing different religious institutions and with the rights of different communities to which they belong.

THE MYSORE RELIGIOUS AND CHARITABLE INSTITUTIONS BILL AS AMENDED BY THE SELECT COMMITTEE.

[Portions in square brackets indicate portions omitted by the Select Committee and portions in italics indicate additions made by the Committee].

Preamble.—Whereas it is expedient to consolidate and amend the law relating to Muzrai and other Religious and Charitable Institutions in Mysore, [His Highness the Maharaja is pleased to enact] *it is hereby enacted* as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Regulation may be called the Mysore Religious and Charitable Institutions Regulation, 19

(2) It shall come into force from.....

(3) It extends to the whole of Mysore.

Short Title and Extent.

Provided that the Government may, by notification in the Official Gazette, direct that this Regulation, or any [specified] part thereof, shall not extend to any specified Religious or Charitable Institution or to any specified class of such Institutions.

2. [(1)] In this Regulation, unless there be anything repugnant in the subject or context:—

(1) *"Religious or Charitable Institution" includes an endowment for the carrying out of any religious or charitable object:*

(2) "Muzrai Institution" means and includes:—

(*i*) every *Matha*, temple, mosque or other place of worship or religious service, [any] *every chatra* or house of feeding or rest for travellers with or without charge, or other institution of a religious or charitable nature, which is now actually in the sole charge of Government, or for the support of which any monthly or annual grant in perpetuity is made from the public revenues, or an inam [has been] *is* granted and is recognised and registered [at the Inam Settlement] as a *devadaya* or *dharmadaya* grant;

(*ii*) every institution of a religious or charitable nature which, under the provisions of this Regulation, [has been] *may be* taken under the sole management of Government so long as it remains under such management:

[2] (3) "Muzrai Officer" shall mean the Deputy Commissioner of the District in which any religious or charitable institution or the whole or any part of the property thereof is situate, and *shall include* an Assistant Commissioner in charge of a taluk or taluks to whom the power of a Muzrai Officer under any of the Sections of this Regulation may be delegated by the Government in respect of the taluk or taluks comprised in his charge.

CHAPTER II.

CONTROL AND MANAGEMENT OF MUZRAI INSTITUTIONS.

3. The Chief Controlling authority in all matters connected with Muzrai institutions is vested in the Government.

4. The Government may appoint an officer to be called the Muzrai Commissioner and may, from time to time, impose and confer upon him such duties and powers of appeal, superintendence and control, as they may think fit, in respect of all or any particular class of Religious and Charitable Institutions.

5. Subject to such rules and conditions as the Government may prescribe, the [Muzrai Officer] *Deputy Commissioner* of the District shall be the immediate controlling authority in respect of all the Muzrai institutions in the District and subject to his authority, the Assistant Commissioner in charge of a Revenue Sub-Division or the Amildar of a taluk may perform such duties and exercise such powers as may be imposed and conferred upon them by any special or general orders of the Government.

6. The Government may appoint Dharmadarsis or Nazarins of wakfs, as the case may be, to manage the affairs of one or more Muzrai institutions and, by rules framed in this behalf, determine the manner of selection, fix the term of office and regulate the powers and duties of such Dharmadarsis and Nazarins.

The Government may delegate to the Muzrai Commissioner or the Deputy Commissioner, the power of appointing Dharmadarsis or Nazarins of wakfs in respect of any institution or class of institutions within his jurisdiction.

7. In addition to or in lieu of Dharmadarsis and Nazarins appointed under Section 6, the Government may, subject to such rules as they may frame in this behalf, appoint a Committee of persons chosen, by election or otherwise, for the management of one or more Muzrai institutions.

8. Notwithstanding anything to the contrary contained in any Regulation or other enactment in force in Mysore, the Government may also at any time, with the consent of a Local Authority, transfer to such Authority the management of any Muzrai institution situated within the local limits of its jurisdiction, subject to such limitations as the Government may prescribe in this behalf. In every such case the funds [necessary] *provided for the management of such institution* [such management] shall be placed at the disposal of the local authority concerned.

9. (1) No [transaction purporting to alienate] *alienation or transfer by way of sale, gift, mortgage or otherwise of* any Inam land granted by the Government to any Muzrai institution for its up-keep or for the maintenance of any person rendering service *in connection therewith and no act* [therein or for public services of a religious or charitable nature, or] purporting to create [adverse] *any* interest *adverse to such institution in* [in a third party with] respect [to] *of* such land, [either by sale, gift, mortgage or otherwise] shall be valid unless it is authorised by the general or special orders of the Government.

(2) No lease of a property belonging to a Muzrai institution for a term exceeding five years shall be valid unless previously approved by the Government *or by such officer as may be empowered by the Government in this behalf.*

10. Whenever *any alienation, transfer or other act in respect of Inam lands which is not valid under the provisions of sectoin* 9 [it] comes to the knowledge of a Muzrai Officer [that the provisions of Section 9 have been contravened] he may after such enquiry as he may deem necessary issue notice to the alienee or the party in possession to restore *such* [the] lands to the institution to which they belong within six months from the date of service of such notice and in default of compliance the Muzrai Officer may summarily resume and restore such lands to the said institution.

Provided that [when the] alienations [was] made prior to the 31st day of January 1853 *shall be dealt with in accordance with the Inam rules contained in Chief Commissioner's Notification No. 266, dated the 17th November* 1877. [but within 50 years computing the period of possession up to the 14th day of December 1867 and the lands of villages so alienated are not restored voluntarily by the holder, the alienation shall be confirmed subject to the payment of a *jodi* of one-half the assessment by the party in possession of the said institution.]

Provided further that where a person has had adverse possession of a property for a period of twelve years before the passing of this Regulation the Muzrai officer shall cancel the inam tenure and impose the full assessment due to the Government under the provisions of the Land Revenue Code or cancel the tenure and direct the assessment recovered to be handed over for the benefit of the institution concerned.

11. Whenever it is deemed necessary to institute a suit on behalf of any Muzrai institution, the Muzrai Officer may file a suit himself or authorise any two or more Dharmadarsis, [or] Nazarins *or other persons having an interest in such institution* to do so and such suit shall be entertained and disposed of by the Civil Court having jurisdiction over the subject matter of the suit as if it was filed under the provisions of Order XXXI of the Civil Procedure Code.

12. [The *jodi* payable under the proviso to Section 10 and] Arrears of rent or revenue due to a Muzrai institution in respect of property belonging to that institution may be recovered by the officers empowered to recover revenue due to the Government and in the same manner as arrears of land revenue due to the Government.

Provided that the said arrears of rent or revenue shall not relate to a period more than six years prior to the institution of proceedings under this Regulation.

CHAPTER III.

PUBLIC RELIGIOUS AND CHARITABLE INSTITUTIONS OTHER THAN MUZRAI INSTITUTIONS.

13. (1) The Government may [temporarily] undertake *either temporarily or permanently* the management of a public, religious or charitable [trust] *institution in respect of which a trust is created* (*a*) when the creator of the trust so desires or (*b*) when the person in actual management or appointed manager or trustee disclaims, dies, or is for a continuous period of six months absent from Mysore *without making proper arrangement for its management*, or leaves Mysore for the purpose of residing abroad, or is declared an insolvent, or desires to be discharged from the trust, or refuses or becomes, in the opinion of the principal civil court of original jurisdiction unfit or personally incapable to act in the trust or accepts an inconsistent trust, and there is no custom, usage, or provision in the instrument of trust or express or implied reservation by the creator of the trust, for the management of the [endowment or] trust under such circumstances.

(2) When any religious or charitable institution comes under the management of the Government it shall be treated as a Muzrai institution so long as it remains in charge of the Government and the provisions of this Regulation with regard to Muzrai institutions shall apply to it.

Reference by the Muzrai Officer to District Judges in case of disputes.

14. Whenever a dispute arises as to whether any charitable or religious trust has been actually created in respect of any institution, [endowment or property,] the Muzrai Officer may *with the sanction of the Government* make a reference to the Court of the District Judge in whose jurisdiction the institution or the greater part of the property thereof is situated.

526

Disposal of the reference.

15. The letter of reference shall be registered and disposed of *by the Court in the same manner* as a suit between the Muzrai Officer as plaintiff and the parties in possession of the property or opposing the contention of the Muzrai Officer as defendants *except that the plaintiff shall not be liable to pay any Court fees in respect of the proceedings following on the reference.*

Award and apportionment of cost.

16. In disposing of references and suits under the foregoing section, the Court shall have full power to apportion and award costs either against the parties or against the estate in dispute. [Provided that no Court fees shall be charged in respect of proceedings following on a reference under Section 14.]

Enquiry regarding mismanagement of the property of a religious or charitable institution.

17. When it is brought to the notice of the Muzrai Officer that any religious or charitable institution dedicated for the benefit of the public or a defined section of the public or any property pertaining thereto is being grossly mismanaged, he may institute an enquiry into the truth of the allegations against the persons in possession and management of the property or the institution.

Order by Muzrai Officer in such cases.

18. If it is proved that there has been gross mismanagement of the institution or of any property pertaining thereto or any misapplication or misappropriation of any part of the property, or any breach of trust in respect thereof, the Muzrai Officer may, with the previous sanction of the Government,

(1) take the institution under the management of Government;

(2) order that the property which has been mismanaged or misappropriated shall be delivered back either to the institution or to the possession of the Government on behalf of the institution;

(3) obtain security for the proper performance of the trust or management of the property;

(4) frame a scheme for the proper management of the institution or management of its property and the application thereof; and

(5) pass such other ancillary or necessary orders as the case may require in accordance with justice and equity.

Procedure in case of wrongful alienation of property of religious charitable institution.

19. (1) Where property belonging to a religious or charitable institution has been wrongfully alienated *or transferred* by way of sale, barter, mortgage, lease or otherwise, the Muzrai Officer may, within *six* [three] years from the date of such alienation *or transfer*, give notice to the alienee *or transferee* and hold a summary enquiry in accordance with the provisions of Chapter XII of the Mysore Land Revenue Code and direct that possession of such property be restored to the institution, or that the Government assume possession thereof on behalf of the institution;

(2) When property belonging to a religious or charitable institution is taken possession of by the Government under Sub-section (1) it shall be subject to the same incidents as property belonging to a Muzrai institution so long as it continues to be in the possession of Government.

Failure of the object of the trust.

20. Where the whole or part of the objects of religious or charitable trust has failed, the Muzrai Officer may, subject to such general rules or special orders as the Government may have issued, after notification in the Official Gazette and hearing such parties as may appear in an enquiry, pass an order directing that the property or the proceeds thereof in respect of which the object has failed, may be utilised for some object of a similar nature, and may frame a scheme for administration thereof.

Suit by a person aggrieved by an order under Sections 18, 19 or 20.

21. Any person [against whom an order has been passed under Sections 18 and 19 directing dispossession, or recovery of possession of property or any person] who is aggrieved by an order of the Muzrai Officer passed under Sections 18, 19 *or* 20 may, within six months from the date [of] *on which* such order *is communicated to him*, file a suit in the Court of the District Judge, in whose jurisdiction the greater part of the property is

situate, for cancellation of such order, making the Muzrai Officer, one of the defendants.

If no such suit has been filed or if it has been *filed and* dismissed by the Court, the Muzrai Officer, may, after the lapse of six months from the date of *the communication of* his original order *or after the dismissal of the suit as the case may be* execute his order and may exercise for that purpose all the powers of a Civil Court in executing decrees.

Provided that in cases in which the property to be disposed of under Section 20 exceeds Rs. 3,000 [300] in value or the annual income thereof is more than Rs. 300 in value, the sanction of Government shall have been obtained for the order.

Power to make rules for the maintenance of accounts, etc., by persons in charge of religious and charitable institutions.

22. The Government shall have power to make rules directing that persons in charge of religious or charitable institutions shall—

(*a*) keep regular accounts of income and expenditure,

(*b*) submit such returns and supply such information as may be necessary,

(*c*) allow such inspection and verification as may be necessary;

and may, by said rules, prescribe a penalty not exceeding Rs. 100 for any infraction thereof *and the method by which it may be enforced.*

Investment of trust money.

23. All moneys belonging to a public religious or charitable institution and not required for immediate use shall be invested in the Government Savings Bank or in any of the following securities, and in no others, *viz*:—

(*a*) In promissory notes, debenture, stock or other securities of the Government of Mysore or of the Government of India or in securities guaranteed by the Government of Mysore;

(*b*) In stock or debentures of, or shares or as deposits in, Railway or other Companies *or Co-operative Societies* approved by the Government;

(*c*) In any other security expressly authorised by the Instrument of Trust or approved by the Government;

(*d*) On the purchase or on the first mortgage of immovable property situated in Mysore; provided that in the latter case the property is not a lease-hold for a term of years and that the value of the property exceeds by one-half, or if it consists of buildings exceeds by three-fourths, the mortgage money.

CHAPTER IV.

MATHAS AND SIMILAR INSTITUTIONS.

Exemption of Mathas from the operation of the foregoing provisions.

24. The provisions of Chapters II and III shall not apply to Mathas and other institutions of a similar nature or to the property belonging to them which are in the possession of Mathadipathis or other persons entitled by law or general or particular usage to exercise powers of management or ownership.

When management of Mathas may be assumed by Government.

25. The Government may take over the possession and management of the property of any Matha *or other institution of a similar nature,*

(1) When the Mathadipathi *or other head of the institution* voluntarily applies for such help and places the institution or its property under the management of the Government;

(2) when he is dead or has left the country and has not been heard of for more than seven years and has not made legal and satisfactory arrangements for the carrying on of the ordinary business of the institution, and there is no successor duly appointed, according to law or custom applicable to succession to the office; [and]

527

(3) when he is a minor without a [legally] *duly* appointed guardian, fit and willing to act as such, or is by reason of physical or mental infirmity unable to manage the affairs of the [Matha] *institution*.

Provided that such management shall cease—

(1) *on the termination of the period of the agreement,*

(2) *when a successor is duly appointed and is competent to manage the property,*

(3) *when the minority or other disqualificaton mentioned above terminates.*

26. When *on complaint made or information furnished in writing by disciples or other persons interested in any matha or other similar institution,* the Government has reason to believe that [any] the Mathadipathi *or other head of the institution* has been grossly mismanaging the property of the institution or has alienated or is attempting to alienate the whole or any part of such property for improper purposes, the Government may order an enquiry by a Committee of not less than three persons, one at least of whom shall *whenever possible* be a disciple of *or a person interested in,* the Matha *or other institution as the case may be, provided he is not a whole-time servant of the Government.* [Who is not in the service of the Government.]

27. On the completion of the said enquiry the Committee shall submit a report of the result thereof to the Government [who on considering the circumstances reported] *and the Government* may *thereupon* take over the management of the institution or pass such orders as [it] may be deemed fit [in the interests of the institution] *concerning the management of the affairs and property of the institution.*

28. When any Matha *or their similar institution* has come under the management of the Government under the provisions of this chapter, it shall be competent to the Government to exercise all the powers possessed by the Mathadipathi *or other head of the institution* for the management of the institution and its property including power to arrange for the proper performance of the customary religious and charitable services. [until a proper Mathadipathi is appointed in accordance with law or usage].

29. Whenever any Matha *or other similar institution* has come under the management of the Government, [it shall be competent to the Government, after making] due provision [for] *shall be made from the income of the institution for—*

(1) the *proper* maintenance of the Mathadipathi [and his dependents, if any,] *or other head of the institution and his establishment, if any,*

(2) the performance of the customary religious and charitable services, and

(3) the preservation and proper management of the property belonging to the Matha *or other similar institution and it shall be competent for the Government* to utilise the *surplus* income of the [Matha] *institution* on objects of charity [and] or for *the encouragement and* the spread of religious instruction according to the tenets of the [Matha] *institution.*

30. Where any inam land is granted by the Government for the upkeep of any Matha *or other similar institution* the Mathadipathi *or the head of the institution* shall not alienate such land and all such alienations unless made with the previous sanction of Government shall be null and void.

In cases of alienation in contravention of the foregoing provision, the Muzrai Officer may, after enquiry, issue notice to the alienee or party in possession to restore the lands to the Matha *or other similar institution* to which they belong within six months from the date of service of the said notice and in default of compliance the lands may be summarily resumed by him and restored to the Matha *or other similar institution.*

Provided that [when such] alienations [was] made prior to the 31st day of January 1853 *shall be dealt with in accordance*

with the inám rules contained in the Chief Commissioner's Notification No. 266, dated the 17th November 1877. [but within 50 years computing the period of possession up to the 14th day of December 1867, the lands or villages so alienated shall, is not voluntarily restored by the holder, be confirmed subject to a jodi of one-half the assessment (that is, survey valuation), the jodi or assessment so imposed being payable to the Matha from which they were alienated.]

31. The provisions of this chapter shall apply to religious institutions presided over by *sajjadas* and other institutions of a similar nature.

CHAPTER V.

PUJARIES AND OTHER HEREDITARY [TEMPLE] SERVANTS OF *Muzrai Institutions.*

Enquiry into the claims to the office of a Pujari or other servant of a Muzrai institution.

32. When there is a dispute about the office of a Pujari, or other servant of a Muzrai institution which by law or usage descends by hereditary right, the Amildar or the Revenue Sub-Division Officer of the taluk in which the institution is situated, as the Muzrai Officer may direct, shall hold an enquiry in the presence of the parties interested and record statements and evidence relevant to the case.

Decision by Deputy Commissioner or Assistant Commissioner.

33. The Muzrai Officer shall, on receipt of the record of enquiry, make such further enquiry as he thinks necessary and decide the case on its merits.

No temple office or service in a Muzrai institution to be hereditary, except under certain circumstances.

34. No office or service in a Muzrai institution shall be deemed to descend by hereditary right unless it has been conferred or recognised originally with an express stipulation to that effect in writing by a competent authority or has been held successively by three generations of the same family in succession in due legal course.

Appointment of a Pujari or other officer in a Muzrai institution.

35. Where there is no claimant entitled to succeed to the office of a Pujari or other office in a Muzrai institution, the Muzrai Officer may appoint any other person competent for such office.

Removal of a Pujari at the instance of Bhaktas.

36. Where a majority of not less than three-fourth of the devotees of a Muzrai temple resident in the village or town in which the temple is situated object to the employment as Pujari of a person claiming by hereditary right, such person shall be removed from office, provided that the objectors pay to the claimant such amount by way of compensation as may be fixed by the Muzrai Officer.

CHAPTER VI.

MISCELLANEOUS.

Mode of enquiry referred to in Sections 10, 17, 20, 26 and 30.

37. The enquiry referred to in Sections [11,] 10, 17, 20, [and] 26 and 30 shall be conducted in the manner prescribed for a formal enquiry under the Mysore Land Revenue Code, after issue of notices to the parties interested and the Muzrai Officer or other person or persons holding the enquiry shall have all the powers of a Revenue Officer empowered to conduct such formal enquiry.

38. (1) Every order passed under this Regulation by a Muzrai Officer which is not liable to be set aside by a suit filed under any of the provisions of this Regulation, shall be subject to appeal to the Muzrai Commissioner;

Provided that when the order is passed by an Assistant Commissioner exercising the powers of a Muzrai Officer, it will be appealable in to the first instance to the Deputy Commissioner.

528

(2) An appeal will lie to the Government against every order passed by the Muzrai Commissioner under this Regulation;

(3) The Government may at any stage withdraw any appeal or proceeding pending before the Muzrai Commissioner and dispose of the same or re-transfer the same for disposal to the Muzrai Commissioner;

(4) The Government may transfer to the Muzrai Commissioner for disposal all or any of the appeals that may be pending before them when this Regulation comes into force.

(5) *No appeal shall be brought after the expiration of thirty days if the decision or order complained of have been passed by an officer inferior in rank to a Deputy Commissioner nor after the expiration of ninety days in any other case.*

In computing the above periods, the time required to prepare a copy of the decision order appealed against shall be excluded.

39. The Government, or the Muzrai Commissioner or any Muzrai Officer may call for and examine the records of any enquiry or the proceeding of any officer subordinate to it or him for the purpose of satisfying as to the legality or propriety of any decision or order passed, and as to the regularity of proceedings of such officer.

If, in any case, it shall appear to the Government or to such officer as aforesaid that any decision or order or proceedings should be modified, annulled or reversed, the Government or such officer may pass such order thereon as may be deemed fit.

Bar of jurisdiction of Civil Courts in cases falling under the Regulation.

40. In all matters in which a Muzrai Officer, the Muzrai Commissioner or the Government, has power to pass any order or to take any action under this Regulation, Civil Courts shall exercise jurisdiction only to the extent allowed by this Regulation.

40A. *Any order passed under this Regulation or the rules issued thereunder by a Muzrai Officer or by the Government shall not bar a suit under the provisions of Section 92 of the Code of Civil Procedure,* 1911.

41. Government may frame rules not inconsistent with this Regulation.

(1) defining the powers and duties of Amildars and Assistant Commissioners in charge of the Revenue Sub-Division in respect of Muzrai institution in their respective jurisdictions,

(2) defining the powers and duties of Dharmadarsis and Nazarins of wakfs,

(3) regulating the appointment of Muzrai servants to the various institutions and defining their duties,

(4) prescribing the scale of expenditure of the Muzrai institutions,

(5) regulating the investment of surplus funds of Muzrai institutions, and

(6) generally to carry out the purposes of this Regulation.

42. The Mysore Muzrai Regulation VI of 1913 is hereby repealed,

[Provided that the notifications published, declarations, rules and appointments made, powers conferred, rights acquired, liabilities incurred, acts done; or sufferred under the Mysore Muzrai Regulation VI of 1913 shall so far as they are consistent with this Regulation have the same force and effect as if they had been respectively made, conferred, acquired, incurred, done or suffered under this Regulation and by the authority empowered thereby in that behalf.]